

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby amends Chapter 57, “Residential Care Facilities,” Chapter 58, “Nursing Facilities,” and Chapter 63, “Residential Care Facilities for the Mentally Retarded,” Iowa Administrative Code.

The adopted amendments provide that a resident may be seen and treated by a health care practitioner, other than the resident’s personal physician, if the practitioner is working in collaboration with the resident’s physician. The current rules require that a resident shall be seen by or visit a physician.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 30, 2008, as **ARC 6560B**. During the public comment period, several individuals noted concerns that the Department’s noticed rules prohibited a health care practitioner, other than the resident’s personal physician, from seeing or treating the resident if the practitioner was employed by the facility. It was noted that the restriction further reduced the availability of health care for residents in long-term care facilities. As a result, the Department eliminated the employment restriction in the adopted amendment to subrule 57.15(6) in 481—Chapter 57, which deals with residential care facilities, and in the amendment to subrule 63.15(6) in 481—Chapter 63, which deals with care facilities for the mentally retarded.

Because it was necessary to revise subrule 58.14(8) in accordance with federal regulations, the Department has rescinded the subrule and adopted a new subrule in lieu thereof. In the new subrule, the Department has adopted the same requirements for physician delegation of duties that are contained in the federal regulations governing nursing facilities participating in the Medicaid and Medicare programs. Adoption of the federal regulations, as outlined in Table 1 of the new subrule, clarifies the process for nursing facilities and, additionally, does not create a state licensure standard inconsistent with the federal regulations.

The adopted amendments originally were presented to the State Board of Health for initial review at the Board’s January 9, 2008, meeting. The Board approved the amendments at its July 9, 2008, meeting. These amendments will become effective September 3, 2008.

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135C.14.

The following amendments are adopted.

ITEM 1. Amend subrule 57.15(6) as follows:

57.15(6) Each resident shall be visited by or shall visit the resident’s physician at least once each year. The year period shall be measured from the date of admission and is not to include preadmission physicals. Any required physician task or visit in a residential care facility may also be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is working in collaboration with the physician. (III)

ITEM 2. Rescind subrule 58.14(8) and adopt the following **new** subrule in lieu thereof:

58.14(8) Each resident shall be visited by or shall visit the resident’s physician at least twice a year. The year period shall be measured from the date of admission and is not to include preadmission physicals. Notwithstanding the provisions of 42 CFR 483.40, any required physician task or visit in a nursing facility may also be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is working in collaboration with a physician, as outlined in Table 1. (III)

In dually certified skilled nursing/nursing facilities, the advanced registered nurse practitioner, clinical nurse specialist, and physician assistant must follow the skilled nursing facility requirements for services for skilled nursing facility stays. For nursing facility stays in skilled nursing/nursing facilities, any required physician task or visit may be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant working in collaboration with the physician.

Nurse practitioners, clinical nurse specialists, and physician assistants may perform other tasks that are not reserved to the physician such as visits outside the normal schedule needed to address new symptoms or other changes in medical status.

Table 1: Authority for non-physician practitioners to perform visits, sign orders, and sign certifications/recertifications when permitted by state law*

	Initial Comprehensive Visit/Orders	Other Required Visits ¹	Other Medically Necessary Visits and Orders ²	Certification/Recertification
Skilled Nursing Facilities				
Nurse practitioner and clinical nurse specialist employed by the facility	May not perform/May not sign	May perform	May perform and sign	May not sign
Nurse practitioner and clinical nurse specialist not a facility employee	May not perform/May not sign	May perform	May perform and sign	May sign subject to state requirements
Physician assistant regardless of employer	May not perform/May not sign	May perform	May perform and sign	May not sign
Nursing Facilities				
Nurse practitioner, clinical nurse specialist, and physician assistant employed by the facility	May not perform/May not sign	May not perform	May perform and sign	May sign subject to state requirements
Nurse practitioner, clinical nurse specialist, and physician assistant not a facility employee	May perform/May sign	May perform	May perform and sign	May sign subject to state requirements

*As permitted by state law governing the scope and practice of nurse practitioners, clinical nurse specialists, and physician assistants.

¹ Other required visits include the skilled nursing resident monthly visits that may be alternated between physician and advanced registered nurse practitioners, clinical nurse specialists, or physician assistants after the initial comprehensive visit is completed.

² Medically necessary visits may be performed prior to the initial comprehensive visit.

ITEM 3. Amend subrule 63.15(6) as follows:

63.15(6) Each resident shall be visited by or shall visit the resident's physician at least annually. The year period shall be measured from the date of admission and is not to include preadmission physicals. Any required physician task or visit in a residential care facility for the mentally retarded may also be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is working in collaboration with the physician. (III)

[Filed 7/9/08, effective 9/3/08]

[Published 7/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/30/08.